

REMARKS

Claim 1 has been amended. No new matter has been added. Claims 1-17 and 31-39 are pending in the application.

Rejections under 35 U.S.C. § 103

Claims 1-17 and 31-39 were rejected under 35 U.S.C. § 103(a) over Perini (U.S. Pat. No. 4,329,895) in view of McCown et al. (U.S. Pat. No. 4,468,993). The Examiner asserts that the method of cutting a plurality of substrates of Perini can be combined with the method of using a conveyor of McCown et al. The rejection of the claims under 35 U.S.C. § 103(a) is respectfully traversed. The applied references, alone or in combination, fail to provide each and every element of the claims.

The Office Action has formally applied the combination of Perini and McCown et al. only to provide a cutting method having various aspects of transporting a log in a conveyor and transitioning the log from the conveyor into a pocket or into a holding support. Some of these aspects are recited in independent claims 1, 10, 14, 31, 35 and 39, specifically in claim elements (a) through (c) of these claims. Applicants respectfully point out that the Examiner has not established a *prima facie* case of obviousness under 35 U.S.C. § 103 for these claim elements. In particular, the Office Action has not presented a proper motivation to combine the references.

The only motivation presented in the Office Action to combine the bucking system of McCown et al. with the cutting machine of Perini is that the bucking system of McCown et al. will "maximize profit." This application of McCown et al. is not consistent with the disclosure of either McCown et al. or Perini. The logs disclosed as useful in the Perini cutting machine are uniform logs of wound paper, and these logs are cut by blades having fixed positions. The purpose of the bucking system of McCown et al. is to adjust the positions of the cutting blades to accommodate irregularities in the timber logs, with an end result of producing individual logs having optimized dimensions. Thus, there is no genuine reason to combine the optimization system of McCown et al. with Perini's cutting machine, which is not intended to be adjusted and optimized for

each successive log of substrate. As noted in MPEP 2143.01, with reference to *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990):

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the **desirability** of the combination.

[Bold emphasis added]

Accordingly, claims 1-4, 10-17 and 31-39 are not obvious over Perini in combination with McCown et al., since there is insufficient motivation to combine the references to provide a *prima facie* case of obviousness.

Independent claims 1, 5 and 14 each recite a log having a moisture content of at least 50%, and independent claim 10 recites a log having a moisture content of at least 65%. As amended, claim 1 recites a wound log of moist substrate. Claims 5, 10 and 14 specifically recite logs of wet wipes. The methods recited in these claims provide particular advantages in the cutting of wet wipes logs or moist wound logs into individual rolls, with minimal distortion of the finished product. These advantages are described in the specification, for example at page 8, lines 4-12 and at page 22, lines 23-30. The description of the characteristics of wet or moist logs including moisture contents above 50% or 65% is also provided in the specification, for example at page 8, lines 13-23. Logs of wet substrates, especially of wet wipes or of moistened wound sheet material, can be damaged easily during processing. For example, if wet or moist logs are pushed across a surface, the relative weakness of the moist web can allow the outer sheets of the log to tear under the frictional forces. If wet or moist logs are clamped into a holder, the original shape of the log can be irreversibly deformed. Further if a wet or moist log is insufficiently supported during processing, the log can sag and can be deformed by the stress of impact with the cutting blades.

Neither Perini nor McCown et al. disclose the transporting or cutting of wet wipes logs or wound logs having the claimed moisture content. Perini discloses only the cutting of sticks or cored rolls of toilet paper, which are rigid logs of dry material [col. 1, lines 8-11]. Dry paper sheets typically have moisture contents below 10%. McCown et al. discloses only the cutting of literal logs of timber, rather than wet wipes logs or moist

wound logs [col. 1, lines 5-24]. The rigid logs disclosed by Perini and McCown et al. are not subject to the same processing concerns as wet, flexible substrates.

The applied references do not teach or suggest, nor does the Office Action assert that the references teach or suggest, a method of cutting moist wound logs or wet wipes logs having moisture contents of at least 50% or 65%. Rather, these claim elements are provided from the Examiner's personal knowledge as indicated by the taking of Official Notice. This Official Notice was presented in a similar context in the first Office Action, mailed July 29, 2002 [Paper No. 8]. In the previous Request For Reconsideration (filed October 29, 2002), applicants requested, under 37 CFR 1.104(d)(2), that the Examiner provide an affidavit in support of the Official Notice based on the Examiner's personal knowledge (see MPEP 2144.03).

As noted in MPEP 2144.03-A.:

It is **never appropriate** to rely solely on "common knowledge" in the art **without evidentiary support in the record**, as the principal evidence upon which a rejection was based. [Emphasis added]

Since the present Official Notice is directed to supplying elements in independent claims, it has clearly not been confined to peripheral issues. Consequently, as noted in MPEP 2144.03-B.:

If such notice is taken, the basis for such reasoning **must be set forth explicitly**. The examiner **must** provide **specific** factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge. [Emphasis added]

Accordingly, applicants hereby repeat the request, under 37 CFR 1.104(d)(2), that the Examiner provide documentary evidence in support of this Official Notice. It is further noted that the present Official Notice is directed to a web having the claimed moisture content, rather than to a log of a web, and Applicants request that any documentary evidence be directed to the elements as recited in the claims.

Moreover, the only motivation set forth to modify the references by using logs having the claimed moisture content is "to increase softness and flexibility of the web." The Office Action fails to describe, however, why one would be motivated to use either of the cited references with a log that is more soft and flexible than a rigid log. As noted above, softness and flexibility is one of the many complicating factors in processing logs having the claimed moisture content. The applied references, alone or in combination, do not teach or suggest each and every element of claims 1-17, nor has the Office Action provided sufficient evidence or motivation to make a proper *prima facie* case of obviousness under 35 U.S.C. § 103(a). Accordingly, and in addition to the reasons set forth above, claims 1-17 are not obvious over Perini and McCown et al.

Independent claims 31 and 35 each recite a flexible log. The methods recited in these claims provide particular advantages in the cutting of flexible substrates. These advantages are described in the specification, for example at page 8, lines 4-12 and at page 22, lines 23-30. As pointed out above, Perini and McCown et al. disclose only the cutting of rigid logs, and these rigid logs are not subject to the same processing concerns as the flexible logs recited in the claims.

The recitations in claims 31 and 35 regarding flexible logs have not been specifically addressed in the rejections. Thus, a *prima facie* case of obviousness has not yet been presented for claims 31-38. To the extent that the Office Action's assertions regarding moist or wet logs are applicable to flexible logs, Applicants emphasize their request, under 37 CFR 1.104(d)(2), for documentary evidence in support of any teachings or suggestions of these claim elements, as well as for proper motivation to modify the cited references by using flexible logs. In the absence of a *prima facie* case of obviousness, and in addition to the reasons set forth above, claims 31-38 cannot be held to be obvious over Perini and McCown et al., alone or in combination, as the references do not teach or suggest each and every element of the claims.

Claim 39 recites the rotational motion of a pocket containing a log of substrate through a cutting process involving circular cutting blades. Specifically, claim 39 recites:

- ... e) rotating the pocket containing the log toward a plurality of circular cutting blades;
- f) rotating the pocket containing the log through the circular cutting blades, whereby the log is cut into a number of shorter rolls;
- g) rotating the pocket containing the rolls away from the cutting blades; ... [Emphasis added]

This rotational motion during the cutting process is described in the specification, for example at page 7, lines 22-27 and at page 10, lines 7-17.

In contrast, Perini discloses the linear motion of a log through “fixed thin blades” that are also linear (i.e. non-circular) [col. 1, lines 17-19; Figure 1]. McCown et al. discloses circular saws “26 and 28”; however, the logs are described as being held stationary while the saws are moved downward to cut the logs [col. 7, lines 25-28; col. 9, lines 40-47]. The references do not teach or suggest, nor does the Office Action assert that the references teach or suggest, a method including rotating a pocket containing a log through a plurality of circular cutting blades. Accordingly, and in addition to the reasons set forth above, claim 39 is not obvious over Perini and McCown et al., alone or in combination, since the references do not teach or suggest each and every element of the claim.

Independent claim 5 recites that the log is cut while in a cutting position and that the log is held in a pocket without any clamps or mandrels. Specifically, claim 5 recites:

- ... b) advancing the pocket containing the log toward a cutting position;
- c) cutting the log into a plurality of rolls in the cutting position;
- d) the pocket maintaining the shape, integrity and position of the log as it is cut into rolls without the need for clamps and with out the need for a mandrel; ...

This cutting of a log in a cutting position is described in the specification, for example in Figures 2 and 36-38, at page 7, lines 22-27, at page 10, lines 7-11 and at page 14, lines 8-17. The maintenance of the shape, integrity, and position of the log without clamping the log is described in the specification, for example at page 7, lines 20-22 and at page 16, lines 6-17.

In contrast, Perini discloses the transportation of a log along a path in order to intersect a set of cutting blades so that the log is gradually cut [col. 1, lines 19-23; Figure 1]. Thus, the Perini method gradually cuts the log along an extended path, rather than rapidly cutting the log in a specific cutting area. McCown et al. discloses a cutting position "C"; however, the logs are specifically described as being clamped in position while the log is cut by the saw blades [col. 7, line 68 through col. 8, line 5; col. 9, lines 40-45]. The references do not teach or suggest, nor does the Office Action assert that the references teach or suggest, a method including cutting a log in a cutting position while the log is held in a pocket without any clamps or a mandrel. Accordingly, and in addition to the reasons presented above, claims 5-9 are not obvious over Perini and McCown et al., alone or in combination, since the references do not teach or suggest each and every element of the claims.

Independent claims 14 and 35 each recite that the cutting blades can be moved to an away position and can be honed while in the away position. This movement and honing of the cutting blades is described in the specification, for example in Figures 1, 5 and 6, and at page 21, lines 11-22. The Office Action asserts that Perini discloses honing the cutting blades in an away position, with reference to col. 3, lines 33-36 of Perini.

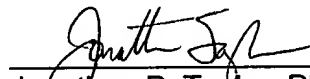
Applicants respectfully point out that Perini does not teach or suggest the movement of the blades to a different position in order to hone the blades. Rather, Perini discloses that the blades are kept stationary while grinding wheels "M" are moved between opposite ends of the blades on a carriage "36" [col. 3, lines 26-39]. McCown et al. does not teach or suggest, nor does the Office Action assert that McCown et al. teaches or suggests, moving the cutting blades to an away position and honing the blades while in the away position. Accordingly, and in addition to the reasons presented

above, claims 14-17 and 35-38 are not obvious over Perini and McCown et al., alone or in combination, since the references do not teach or suggest each and every element of the claims.

In conclusion, all of the grounds raised in the outstanding Office Action for rejecting the application are believed to be overcome or rendered moot based on the remarks above. Thus, it is respectfully submitted that all of the presently presented claims are in form for allowance, and such action is requested in due course. Should the Examiner feel a discussion would expedite the prosecution of this application, the Examiner is kindly invited to contact the undersigned.

Respectfully submitted,

4/17/03


Jonathan P. Taylor, Ph.D.
Registration No. 48,338
Agent for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200